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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,985	10/05/2006	Nathan Arthur Tranter	42-000600US	5992

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EXAMINER

ING, MATTHEW W

ART UNIT	PAPER NUMBER
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3637

MAIL DATE	DELIVERY MODE
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01/24/2012

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,985	Applicant(s) TRANTER ET AL.	
	Examiner MATTHEW ING	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-3 and 5-22 is/are pending in the application.
- 5a) Of the above claim(s) 2,3 and 5-10 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1 and 11-22 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 02 June 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1 & 11-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 1, it is unclear whether the term “product” denotes positively claimed structure, or intended use. Clarification is required. For the purposes of examination, the examiner is considering “product” to denote positively claimed structure.
4. Regarding claims 11-22, the dependence of such claim(s) upon an indefinite base claim renders said claim(s) indefinite.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1, 11, 14, & 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Noellert (5,954,410).
7. Regarding claim 1, Noellert teach(es) the structure substantially as claimed, including an apparatus comprising a frame (28) having an opening (defined by inner edges of 28) and mounted on or in a surface of said cavity (spaced between 14'); a member (22) moveable within the frame and capable of securing a product; and a pivot assembly (32) connecting the frame to the member, thereby enabling movement of the member between a first position (Fig. 1) and a

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second position (Fig. 2) wherein the pivot assembly is located adjacent an opening to said cavity. The only difference between Noellert and the invention as claimed is that Noellert fail(s) to teach a product secured to said member, said product being operable without removal from said member. However, the examiner takes OFFICIAL NOTICE that storing a cell phone upon a surface is well-known in the art. It is noted that a cell phone could be secured to the member (22) of Noellert via securing means (42); and that such a cell phone would be "concealed from view" in the first position, and "in view and accessibly mounted for immediate personal operation and ready for use by a user without . . . be[ing] physically removed from the apparatus" when in the second position. It would have been obvious to one of ordinary skill in the art to store a cell phone upon the member of Noellert, in order to store said cell phone when not in use.

8. Regarding claim 11, Noellert teaches a first panel (18') and a second panel (24) connected by one or more side frames.

9. Regarding claim 14, Noellert teaches a portion of the first panel (18') being connected to the frame (28) through the pivot assembly (32). See Fig. 5.

10. Regarding claim 21, since a cell phone, keyboard or appropriately-sized laptop (including monitor) could be placed within the apparatus of Noellert, said apparatus can therefore be characterized as being "configured to receive . . . a . . . keyboard, telephone or monitor."

11. Regarding claim 22, Noellert teaches a frame (28) capable of being mounted from a ceiling (Figs. 1-2).

12. Claims 1, 11, 13-16, & 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837).

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13. Regarding claim 1, Schmidt teach(es) the structure substantially as claimed, including an apparatus comprising a frame (14 & 16) having an opening (defined by inner surfaces of 14 & 16) and mounted on or in a surface of a cavity (defined by bottom surface of 30, front surface of 28, bottom surface of 32, and inner surfaces of 24-25); a member (36) moveable within the frame and capable of securing a product (e.g., by being closed); and a pivot assembly (60 & horizontal portion of 58) connecting the frame to the member, thereby enabling movement of the member between a first position (Fig. 4) and a second position (Fig. 5) wherein the pivot assembly is located adjacent an opening to said cavity (Fig. 7). The only difference between Schmidt and the invention as claimed is that Schmidt fail(s) to teach a product secured to said member, said product being operable without removal from said member. However, the examiner takes OFFICIAL NOTICE that hanging a stopwatch from a hook is well-known in the art. It is noted that a stopwatch may be characterized as an operable product; and that if a stopwatch were stored upon a hook (48) within the member of Schmidt, it would be “concealed from view” in the first position, and “in the second position the product is in view and accessibly mounted for immediate personal operation and ready for use by a user without requiring the product to be physically removed from the apparatus” (see Figs. 4-5 & 7). It would have been obvious to one of ordinary skill in the art to hang a stopwatch from one of the hooks of Schmidt, in order to store said stopwatch when not in use.

14. Regarding claim 11, Schmidt teaches a member (36) comprising a first panel (38) and a second panel (40) connected by one or more side frames (42).

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15. Regarding claim 13, Schmidt teaches a second panel (40) being coplanar (via coplanarity between the rear surfaces of 14 & 16, and the rear surface of 40 – see Fig. 7) with the frame (14 & 16) and substantially covers the opening in the second position.

16. Regarding claim 14, Schmidt teaches a portion (portion of 38 above 44 in Fig. 7) of the first panel (38) being connected (albeit indirectly - see Fig. 7) to the frame (14 & 16) through the pivot assembly (60 & horizontal portion of 58). Alternately, Schmidt can be viewed as teaching a first panel (38) and a second panel (44), said first panel (38) being connected (albeit indirectly - see Fig. 7) to the frame (14 & 16) through the pivot assembly (60 & horizontal portion of 58).

17. Regarding claim 15, it is noted that Schmidt as modified teach(es) the structure substantially as claimed, including a second panel (44) having a leg (non-horizontal portion of 58) extending therefrom, a distal end of said leg being connected to the frame (14 & 16) via the pivot assembly (60 & horizontal portion of 58). The only difference between Schmidt as modified and the invention as claimed is that Schmidt as modified fail(s) to teach extending a pair of legs from said second panel, a distal end of each leg being connected to the frame through the pivot assembly. However, it is noted that mere duplication of the essential working parts of a device has been held to involve only routine skill in the art. It would have been obvious to one of ordinary skill in the art to add a second leg & pivot assembly to the member of Schmidt as modified, in order to provide additional support thereto.

18. Regarding claim 15, it is alternately noted that Schmidt can be viewed as teaching first (38) and second (40) panels; and a leg (non-horizontal portion of 58); and that the examiner takes OFFICIAL NOTICE that extending a pair of legs from a rear panel of a pivotable member is well-known in the art. It would have been obvious to one of ordinary skill in the art to add a

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second leg & pivot assembly to the member of Schmidt, in order to provide additional support thereto; and to extend both legs of Schmidt as modified from the second panel thereof, in order to provide additional support to the rear of said member.

19. Regarding claim 16, Schmidt as modified teaches a pivot assembly comprising a rod (horizontal portion of 58) attached to or formed in each of the legs and a bush (60) formed in opposing sections of the frame for receiving a respective rod, the frame (14 & 16) comprising four sections (16 at top & bottom, 14 on sides).

20. Regarding claim 21, since a cell phone, keyboard or appropriately-sized laptop (including monitor) could be placed within the apparatus of Schmidt, said apparatus can therefore be characterized as being "configured to receive . . . a . . . keyboard, telephone or monitor."

21. Regarding claim 22, Schmidt teaches a frame (14 & 16) capable of being mounted from a piece of furniture (i.e., cabinet 10).

22. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 11, in view of Schnurer (4,706,845).

23. Schmidt as modified teach(es) the structure substantially as claimed, including frame (14 & 16), and a member (36) comprising a first panel (38). The only difference between Schmidt as modified and the invention as claimed is that Schmidt as modified fail(s) to teach making a first panel coplanar with the frame and substantially covers the opening in the first position.

24. Schnurer, however, broadly teaches shaping a frame (combination of 46, & downwardly-protruding edge behind 62) to make a first panel (52) coplanar with the frame (specifically, with the front edges of 46 - see Figs. 4-5); and giving a first panel (52) a smooth front surface. The examiner submits that, when applying the teachings of Schnurer to the structure of Schmidt, one

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of ordinary skill would understand that making the first panel of Schmidt coplanar with the frame would require reducing the length of said first panel & including a recess along the inner edges of said frame.

25. It would have been obvious to one of ordinary skill in the art to make the first panel of Schmidt smooth, as taught by Schnurer, in order to improve the aesthetic appearance thereof; and to modify the frame & member of Schmidt as modified such that the first panel is coplanar with the frame thereof, in order to present a more sleek appearance by preventing said first panel from protruding beyond the front of the cabinet of Schmidt.

26. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 16, in view of Schnurer (4,706,845).

27. Schmidt as modified teach(es) the structure substantially as claimed, including a side frame (42) shaped to enable a second panel (40) to remain coplanar with and in the frame (see Fig. 7) in the second position (Fig. 5). The only difference between Schmidt as modified and the invention as claimed is that Schmidt as modified fail(s) to teach shaping a side frame to enable the first panel to remain coplanar with and in the frame in the first position.

28. Schnurer, however, broadly teaches shaping a frame (combination of 46, & downwardly-protruding edge behind 62) and side frame (58) to make a first panel (52) coplanar with the frame (specifically, with the front edges of 46 - see Figs. 4-5); and giving a first panel (52) a smooth front surface. The examiner submits that, when applying the teachings of Schnurer to the structure of Schmidt, one of ordinary skill would understand that making the first panel of Schmidt coplanar with the frame would require reducing the length of said first panel, reducing the width of the side frames, & including a recess along the inner edges of said frame.

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29. It would have been obvious to one of ordinary skill in the art to make the first panel of Schmidt as modified smooth, as taught by Schnurer, in order to improve the aesthetic appearance thereof; and to modify the frame & member of Schmidt as modified such that the first panel is coplanar with the frame thereof, in order to present a more sleek appearance by preventing said first panel from protruding beyond the front of the cabinet of Schmidt as modified.

30. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) & Schnurer (4,706,845) as applied to claim 17, in view of Vogel (2,048,363). Schmidt as modified teach(es) the structure substantially as claimed, including side frames (42). The only difference between Schmidt as modified and the invention as claimed is that Schmidt as modified fail(s) to teach side frames each comprising four segments joined in the shape of a quadrilateral, with a segment joined respectively to the first panel and the second panel. Vogel, however, teaches the inclusion, in each side frame of a member (5b) of four segments (5a) joined in the shape of a quadrilateral (Figs. 5 & 7), with a segment joined respectively to a first panel (9) and a second panel (rear of 5b). Since 5b is described as a "container", the examiner submits that the side frame on each side of the container comprises not only the four segments (5a), but also a vertical planar member extending rearwardly from, and perpendicularly to, the front panel (9). It would have been obvious to one of ordinary skill in the art to add four segments, as taught by Vogel, to each of the side frames of Schmidt as modified, in order to provide structural reinforcement thereto.

31. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt (5,927,837) as applied to claim 1, in view of Nott (2002/0079792). Schmidt teach(es) the structure substantially as claimed, including a pivot assembly (60 & horizontal portion of 58).

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The only difference between Schmidt and the invention as claimed is that Schmidt fail(s) to teach a remote controlled motor connected to the pivot assembly in order to control the pivot means assembly to operate the member to move between the first position and the second position. Nott, however, teaches a remote controlled (par. 72) motor (M) connected to a pivot assembly in order to control the pivot means assembly to operate the member to move between the first position and the second position. It would have been obvious to one of ordinary skill in the art to connect a remote-controlled motor, as taught by Nott, to the pivot assembly of Schmidt, in order to reduce the amount of effort required for a user to actuate the member thereof, thereby providing the structure substantially as claimed.

Response to Arguments

32. Applicant's arguments, see Remarks, filed 11/8/11, with respect to the drawing objections have been fully considered and are persuasive. The drawing objection has been withdrawn, and the drawings filed 6/2/10 have been entered.

33. Applicant's arguments, see Remarks, filed 11/8/11, with respect to the claims, have been fully considered but they are not persuasive. In response to applicant's arguments regarding "a product", as noted above, it is unclear whether or not claim 1 positively claims "a product". Moreover, even assuming *arguendo* that claim 1 does positively recite "a product", as noted above, both Schmidt as modified & Noellert as modified teach such an operable product mounted to a movable member.

Conclusion

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fitzgerald (6502718) teaches structure similar to that disclosed by applicant.

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35. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW ING whose telephone number is (571)272-6536.

The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWI
1/17/12

/Jose V. Chen/
Primary Examiner, Art Unit 3637